

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

STEPHANIE CARTER,

Plaintiff,

v.

DENIS RICHARD MCDONOUGH, in his
official capacity as United States Secretary of
Veterans Affairs, and the UNITED STATES
DEPARTMENT OF VETERANS AFFAIRS,

Defendants.

Civil Action No. 6:22-cv-1275-A

**DEFENDANTS' UNOPPOSED MOTION TO STAY DEADLINES PENDING
RESOLUTION OF THE PRELIMINARY INJUNCTION MOTION**

Defendants respectfully request that the Court stay all upcoming deadlines in this case—in particular, Defendants' deadline to respond to Plaintiffs' complaint, which presently falls on Tuesday, February 14, *see* Fed. R. Civ. P. 12(a)(2)—until 30 days following a decision on Plaintiff's pending Motion for a Preliminary Injunction (ECF No. 13). Counsel for the parties have conferred, and Plaintiff does not oppose this request. The request is supported by good cause as set forth below.

1. On December 13, 2022, Plaintiff filed a Complaint in the above-captioned matter. ECF No. 1. The Complaint names as Defendants the Department of Veterans Affairs (VA) and VA Secretary Denis Richard McDonough in his official capacity.

2. Federal government defendants have 60 days from service on the United States Attorney to respond to a complaint. Fed. R. Civ. P. 12(a)(2). Although the docket does not reflect proof of service on the U.S. Attorney's Office, undersigned counsel understands service to have been effectuated on December 16, 2022. Thus, Defendants' response to the Complaint is currently due February 14, 2023.

3. On December 15, 2022, Plaintiff filed a motion for a preliminary injunction seeking to enjoin the VA's Interim Final Rule regarding Reproductive Health Services at the Olin E. Teague VA facility in Temple, Texas. *See* ECF No. 13. The motion has been fully briefed. *See* ECF No. 31 (Defendants' opposition); ECF No. 41 (Plaintiff's Reply); ECF No. 43 (Defendants' Sur-reply). In their opposition, Defendants raise several arguments that, if accepted, could potentially be dispositive in this case.

4. In light of the fully briefed motion, Defendants respectfully request that all upcoming deadlines be stayed, and in particular that Defendants' deadline to respond to the complaint be extended until 30 days following a decision on Plaintiff's pending motion. Such an extension will promote efficiency and avoid the needless expenditure of party and judicial resources. In particular, if Defendants were required to respond to the Complaint now, they would file a motion to dismiss raising many of the same issues that the Court is already considering in connection with the pending preliminary-injunction motion—*e.g.*, lack of subject-matter jurisdiction over Plaintiff's claims, and failure to allege a cognizable substantial burden under RFRA. There is no benefit to requiring additional briefing on the same issues the Court is already considering. In contrast, a short stay until after the preliminary-injunction motion is decided will allow the parties to better evaluate what (if any) arguments ought to be presented at that time in light of the Court's preliminary-injunction ruling. Moreover, the parties will be able to better assess the ripeness of Plaintiff's claims at that time, based on the parties' ongoing correspondence regarding a potential accommodation. *See* Exhibit A. Corresp. Between Counsel (attached hereto) (noting the potential availability of registered nurse positions). Thus, a short stay of all upcoming deadlines—including any briefing on a potential motion to dismiss—would promote judicial economy, preserve the parties' resources, and better facilitate the ultimate resolution of this case.

5. Counsel for the parties have conferred regarding this request, and Plaintiff does not oppose it.

Dated: February 9, 2023

Respectfully submitted,

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Principal Deputy Assistant Attorney General

BRIAN D. NETTER
Deputy Assistant Attorney General

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CERTIFICATE OF CONFERENCE

I certify that I conferred via email with counsel for Plaintiff regarding the relief requested in this motion. Counsel indicated that Plaintiff is not opposed to the requested relief.

/s/ Anna Deffebach
Anna Deffebach

CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2023, I electronically filed the foregoing document through the Court's CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Anna Deffebach
Anna Deffebach